

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05-02-2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND

THE HONOURABLE MR. JUSTICE M. VENUGOPAL

W.A. No.1718 of 2014 and M.P. Nos.2 of 2014 and 1 of 2015

R. Sivasamy
President
Thennamanallur Panchayat
Thondamuthur Panchayat Union
Coimbatore District

Appellant

Vs

1 The District Collector
Coimbatore District

2 The Assistant Director of Village Panchayat
Office of the District Collector
Coimbatore District

3 The Tahsildar
Coimbatore South
Coimbatore District

Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 02.12.2014 passed in W.P. No.3653 of 2014 filed under Article 226 of the Constitution of India to issue a writ of certiorari to call for the records relating to the impugned proceedings issued by the 3rd respondent in Na.Ka.No.1045 of 2014 /A3 dated 27.1.2014 and quash the same.

For appellant ::Mr. Yashod Vardhan, Sr. Counsel
for Mr. R. Murali

For respondents::Mr. P.H. Aravind Pandiyan, Addl. Adv. Gen.
assisted by
Mr. P.S. Sivashanmugasundaram
Special Government Pleader

JUDGMENT

(Order of the Court was made by SATISH K.AGNIHOTRI, J.)

With the consent of the learned counsel on either side, the writ appeal is taken up for final disposal.

2 This writ appeal arises from the order dated 02.12.2014 passed by the Writ Court in W.P. No.3653 of 2014.

3 The appellant/writ petitioner, claiming to be the elected President of Thondamuthur Panchayat Union, Coimbatore District, came up with the writ petition, questioning the legality and validity of the proceedings in Na.Ka.No.1045/2014/A3 dated 27.01.2014 issued by the third respondent, whereunder, a special meeting was directed to be convened on 11.02.2014, to know the opinion of the Panchayat under Section 205 of the Tamil Nadu Panchayats Act, 1994 (for short "the Act").

4 The case of the appellant/writ petitioner before the Writ Court was that he, as well as, all other members participating in the meeting are entitled to a copy of the representation, explanation and also, the opinion of the authorities before convening the meeting for consideration of notice and the explanation for removal of the elected President under Section 205 of the Act.

5 The learned counsel for the appellant/writ petitioner further submits that the settled legal position is that proceedings for removal of a duly elected member on the basis of proved misconduct, is a quasi judicial proceeding in nature and as such, the principles of natural justice are required to be given full play and strict compliance, even in the absence of any provision providing for the same, relying on the judgment of the Supreme Court in Ravi Yashwant Bhoir vs. District Collector, Raigad and Others, (2012) 4 SCC 407.

6 The learned Additional Advocate General appearing for the respondents would submit that the appellant/writ petitioner should not have a grievance against the impugned order, for, though his writ petition has been dismissed, the Tahsildar was directed to issue a fresh notice convening the meeting of Panchayat, as per the provisions of Section 205 of the Act.

7 We have examined the provisions of Section 205 of the Act. We do not find that there is any provision qua supply of the relevant materials, i.e., representation, explanation and opinion for consideration of notice and expalantion, before removal of the President in a meeting convened by the Tahsildar under provision of

sub-section (3) of Section 205 of the Act. Supply of requisite material is a pre-condition for considering the case in accordance with the principles of natural justice, as held by the Supreme Court in Ravi Yashwant Bhoir (supra). The appellant/writ petitioner against whose removal, a meeting is to be convened, is entitled to all the relevant materials, as aforesaid. The other members are also entitled to the relevant materials for effective and proper consideration and decision.

8 We accordingly direct the Tahsildar, the third respondent herein, that while issuing a notice for convening a requisite meeting of the Panchayat Union, he shall ensure that all the participants, including the elected President, are supplied with the relevant materials on which there is a proposed discussion and a decision is to be taken thereon. To this limited extent, the order passed by the Writ Court is modified.

9 The writ appeal stands disposed of accordingly. No costs. Connected Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

cad

To

- 1 The District Collector
Coimbatore District
- 2 The Assistant Director of Village Panchayat
Office of the District Collector
Coimbatore District
- 3 The Tahsildar
Coimbatore South
Coimbatore District

1 cc to the Government Pleader, Sr. 6771

W.A. No.1718 of 2014

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